

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE SPACE, INC.,

Case No. 08 CV 2854 (SAS)

Plaintiff,

-against-

PERRY ALAN SIMOWITZ, SPOTLIGHT VENTURES,
INC. d/b/a PERRY ALAN PRODUCTIONS, PERRY
ALAN SIMOWITZ d/b/a PERRY ALAN PRODUCTIONS,
and PERRY ALAN PRODUCTIONS,

Defendants.

-----X

**DECLARATION OF MATTHEW KOSTER
IN SUPPORT OF DEFENDANTS REPLY BRIEF IN OPPOSITION TO PLAINTIFFS'
CROSS-MOTION**

Matthew Koster, an associate duly admitted to practice in the State of New York, hereby affirms the following under the penalty of perjury:

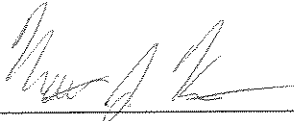
1. I am an associate with the law firm of Gordon & Rees, L.L.P., counsel for Defendants. As counsel for Defendants, I am fully familiar with the facts set forth herein. This Declaration is submitted in support of Defendants' Reply Brief in Opposition to Plaintiffs' Cross Motion.

2. Annexed hereto as Exhibit "1" is a true and complete copy of a receipt from the Clerk's office in the Southern District of New York dated March 18, 2008.

3. Annexed hereto as Exhibit "2" is a true and complete copy of the docket report.

4. Annexed hereto as Exhibit "3" is a true and complete copy of a letter from the Southern District of New York Clerk's office dated March 13, 2008.

Dated: New York, New York
April 30, 2008



Matthew J. Koster (MK 3080)

EXHIBIT “1”

ORIGINAL-WHITE

DUPLICATE-YELLOW

TRIPPLICATE-PINK

RECEIPT FOR PAYMENT

UNITED STATES DISTRICT COURT
for the
SOUTHERN DISTRICT OF NEW YORK

E 645088

RECEIVED FROM

at
Gordon & Rees
08 CV 2854 (SAS)

Fund
6855XX
604700

Deposit Funds
Registry Funds
General and Special Funds
Immigration Fees

508800

Attorney Admission Fees

085000

Filing Fees

086900

Sale of Publications

322340

Copy Fees

322350

Miscellaneous Fees

322360

Interest

143500

Recoveries of Court Costs

322380

Restitution to U.S. Government

322386

121000

Conscience Fund1 COMPLAINT 4/06

129900

Gifts

504100

Crime Victims Fund

613300

Unclaimed Monies

510000

Civil Filing Fee (%)

510100

Registry Fee

100814-08

INVOICE #22796

DATE/TIME: 3/18/2008 1:38:58 PM

CASHIER: Marc #10

STATION: 01

\$350.00

\$350.00

\$350.00

Checks and drafts are accepted subject to collection and full credit will only be given when the check or draft has been accepted by the financial institution on which it was drawn.

DEPUTY CLERK:

DATE:

20

Cash	Check	M.O.	Credit

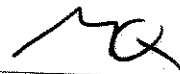


EXHIBIT “2”

ECF

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:08-cv-02854-SAS

The Space, Inc. v. Simowitz et al
Assigned to: Judge Shira A. Scheindlin
Case in other court: State Court-Supreme, 100814-08
Cause: 28:1332 Diversity-Other Contract

Date Filed: 03/18/2008
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff**The Space, Inc.**

represented by **Brett Matthew Grossman**
Grossman & Grossman, P.C.
360 Lexington Avenue, 12th Floor
New York, NY 10017
(212) 616-8178
Fax: (646) 454-4190
Email: bmg008@aol.com
LEAD ATTORNEY

V.

Defendant**Perry Alan Simowitz**

represented by **Deborah Swindells Donovan**
Gordon & Rees, LLP(NYC)
90 Broad Street
23rd Floor
New York, NY 10004
(212)201-6777
Fax: /(212)201-6778
Email: ddonovan@gordonrees.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Spotlight Ventures, Inc.
doing business as
Perry Alan Productions

represented by **Deborah Swindells Donovan**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Perry Alan Simowitz
doing business as
Perry Alan Productions

represented by **Deborah Swindells Donovan**
(See above for address)
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant**Perry Alan Productions**

represented by **Deborah Swindells Donovan**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/18/2008	<u>1</u>	NOTICE OF REMOVAL from Supreme Court of the State of New York, County of New York. Case Number: 100814-08. (Filing Fee \$ 350.00, Receipt Number 645088). Document filed by Perry Alan Simowitz, Spotlight Ventures, Inc., Perry Alan Productions.(jpo) (mbe). (Entered: 03/19/2008)
03/18/2008		Magistrate Judge Henry B. Pitman is so designated. (jpo) (Entered: 03/19/2008)
03/18/2008		Case Designated ECF. (jpo) (Entered: 03/19/2008)
03/18/2008	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Perry Alan Simowitz, Spotlight Ventures, Inc., Perry Alan Productions.(jpo) (mbe). (Entered: 03/19/2008)
03/19/2008	<u>3</u>	MOTION to Dismiss <i>Notice of Motion to Dismiss</i> . Document filed by Perry Alan Simowitz, Spotlight Ventures, Inc., Perry Alan Productions. (Donovan, Deborah) (Entered: 03/19/2008)
03/19/2008	<u>4</u>	MEMORANDUM OF LAW in Support re: <u>3</u> MOTION to Dismiss <i>Notice of Motion to Dismiss. Memorandum of Law In Support of Motion to Dismiss</i> . Document filed by Perry Alan Simowitz, Spotlight Ventures, Inc., Perry Alan Productions. (Donovan, Deborah) (Entered: 03/19/2008)
04/28/2008	<u>5</u>	CROSS MOTION to Remand to State Court <i>and in Opposition to Defendants' Motion</i> . Document filed by The Space, Inc..(Grossman, Brett) (Entered: 04/28/2008)
04/28/2008	<u>6</u>	MEMORANDUM OF LAW in Support re: <u>5</u> CROSS MOTION to Remand to State Court <i>and in Opposition to Defendants' Motion..</i> Document filed by The Space, Inc.. (Grossman, Brett) (Entered: 04/28/2008)

PACER Service Center			
Transaction Receipt			
04/29/2008 16:52:54			
PACER Login:	gr0084	Client Code:	palp 1049639
Description:	Docket Report	Search Criteria:	1:08-cv-02854-SAS
Billable Pages:	2	Cost:	0.16

EXHIBIT “3”

United States District Court
Southern District Of New York
Office of the Clerk
500 Pearl Street
New York, NY 10007

J. Michael McMahon, Clerk of Court

Dear Sir/Madam:

The enclosed document(s) is/are being returned for the following reason(s):

- ☐ Filing fee of \$_____ is required
- ☐ Fee is premature until motion has been granted or denied
- ☐ No personal checks, check must be certified or enclose a money order
- ☐ Certificate of good standing (COGS) from a New York State Court must be issued within thirty days. If COGS is from VT or CT both Federal and State certificates are needed and must be issued within thirty days (Local Rule 1.3)
- ☐ Sponsor must know petitioner for at least one full year, specific date needed if it is only one year (Local Rule 1.3)
- ☐ For original signature of the attorney of record, facsimile signatures are not acceptable
- ☐ New Petition for Admission/ECF Registration form must be filled out and notarized

New Action could not be opened due to following:

- ☒ One original and two copies of SDNY civil cover sheets (JS44C/SDNY) are needed
- ☒ One original and one copy of Federal Rule 7.1 are needed
- ☐ Only one Nature of Suit can be marked off
- ☐ Signing Attorney must be admitted in the Southern District
- ☐ If relating new action, SDNY case number and judge are needed

Under Basis of Jurisdiction:

- ☐ U. S. Plaintiff/ U. S. Defendant is for government agencies only
- ☐ Cannot file as Federal Question and Diversity
- ☐ Citizenship of Principal Parties is for Diversity cases only
- ☒ Only one box for plaintiff and one box for defendant allowed under Citizenship of Principal Parties no matter how many parties are involved
- ☐ Diversity and Nature of Suit #890 (other statutory actions) can not be chosen together
- ☒ Other Choose venue, self addressed envelope

Please comply with the above checked item(s) and resubmit said document(s) in conformity to the Rules of this court. Thank you for your cooperation.

MAR 13 2008

Date


Deputy Clerk